52180 DD.

Gazette No. 49 dated 13th December 1955.

PART I

NOTIFICATION.

No. L. Dis. 10195|55|DD. *29th November 1955.*

The award of the Industrial Tribunal, Trivandrum in respect of the dispute between Sri Thirumala Ramalingom Pillai, Ex-Secretary Cardamom Association, Cumbum, Managing Proprietor of Meenakshivilasom Estate and their workman Sri Ramaiah Pillai, dismissed worker of the above Estate represented by the Regional Secretary, E. S. U. S. I. Kottayam received by Government on 19-11-1955 is hereby published under Section 17 of the Industrial Disputes Act 1947 (Central Act XIV of 1947).

By order of His Highness
the Raj Pramukh,

V. V. JOSEPH,
Secretary to Government.

Government Secretariat,
Development Department,
Labour Section, Trivandrum.

Before

SRI K. N. KUNJUKRISHNA PILLAI B. A., B. L.,
Industrial Tribunal, Trivandrum.

INDUSTRIAL DISPUTE No. 103 OF 1955.

Between

SRI THIRUMALA RAMALINGOM PILLAI, EX-SECRETARY CARDAMOM ASSOCIATION, CUMBUM, MANAGING PROPRIETOR OF MEENAKSHIVILASOM ESTATE, VANDENMETTU

And

HIS WORKMAN SRI RAMAIAH PILLAI, DISMISSED WRITER OF MEENAKSHIVILASOM ESTATE

Represented by

THE REGIONAL SECRETARY, E. S. U. S. I., KOTTAYAM.

Representation:

Employer	..	No representative
Union	..	Sri K. Bhanu, Regional Secretary, E. S. U. S. I., Kottayam.

AWARD.

The dispute between the above parties was referred by Government in their Order No. L4-10195/55/DD. dated 3-6-1955 and was numbered as Industrial Dispute No. 103 of 1955. Summons were issued and the case was posted to 15-7-1955, for filing statement. The Union alone filed statement. I have again adjourned the case to 6-8-1955 for the reply statement of the Managing Proprietor of Meenakshivilasom Estate. No statement was filed and there was not even an application for time. Again it was adjourned to 12-9-1955 and 31-10-1955. On those dates also, the

Secretary of the Union alone was present with witnesses. Again, I have adjourned to 10-11-1955 and a registered notice was sent to the parties. Neither the Managing Proprietor nor any representative was present. The Union examined one witness and filed Ext. A to Ext. D. The issues to be decided are: —

1. Is the dismissal of Sri Ramaiah Pillai, Writer Meenakshivilasom Estate is justified?

2. What relief or reliefs is he entitled to
   (a) If the dismissal is justified?
   (b) If the dismissal is not justified?

2. The discharged worker Sri S. Ramaiah Pillai was examined as WW1. He has sworn to in term of the statement filed by the Union. He was not cross-examined, hence his testimony stands unchallenged and I believe him.

3. WW1 was a writer employer in the Meenakshivilasom Estate, Vandenmettu from 1940 on a salary of Rs. 65. He was arbitrarily dismissed by the Managing Proprietor on 10-2-1954. The Union had taken up the matter and it is evidence from Ext. A dated 6-5-1954 and Ext. B dated 5-6-1954 that the Union has requested the Managing Proprietor to re-instate the employee who was arbitrarily dismissed. There was no response to Ext. A and B. letters. Hence, the Union wrote to the Assistant Labour Commissioner who is the Conciliation Officer and the copy of the letter is marked as Ext. C dated 22-2-1955. The Conciliation Officer has called for a conference to be held on 29-3-1955, copy of the communication is marked as Ext. D. It is deposed by WW1 that the Managing Proprietor did not attend the conference also. In this connection, it is to be noted that a registered communication sent from the Court was also returned with the endorsement that the Managing Proprietor refused to accept. It is also in evidence that this employee is the only member of the Union from the Estate.

4. From the evidence, it is crystal clear that WW1 was arbitrarily dismissed by the Managing Proprietor on 10-2-1954 with an ulterior object of discouraging union activities. Hence, I hold that it is an act of victimisation and that WW1 should be reinstated in his original job with back wages from 10-2-1954 till he is reinstated.

5. Mr. Bhanu would strongly press for the cost. He submits that he was present with the witness on all dates at Trivandrum and Ernakulam and his witness was coming from Vandenmettu and he was coming from Kottayam. It was due to the fault of the Managing Proprietor that the dispute was adjourned eventhough he was ready with evidence on all posting days and he has incurred a cost equal to Rs. 200. The employer's attitude towards machineries constituted for establishing industrial peace is highly regretful. I am of the view that it is a fit case for awarding costs to the Union. The Managing Proprietor should pay cost to the Union which I assess as Rs. 200.

6. The employee should be reinstated within 2 weeks from the date of publication of this Award in the Gazette under Section 17 of the Industrial Disputes Act. The arrears of salary and cost should be paid to the parties within 2 weeks from the date of publication. If the employee is not reinstated as provided with award, he should be deemed to be in the service of the estate, from the date mentioned above.

7. I pass this Award in terms specified above and this comes into effect from the date of publication under Section 17 of the Act.

Ernakulam,
11-11-1955.

K. N. KUNJUKRISHNA PILLAI,
Industrial Tribunal.

APPENDIX.

Worker's Witness.
1. Sri S. Ramaiah Pillai.

Employer's Witness.
Nil.

Exhibits on behalf of Management.
Nil.

Exhibits on behalf of Union.

A. Letter from the Union to the Proprietor dated May 6th 1954.

B. Letter from the Union to the Proprietor dated 5th July 1954.

C. Petition from the Union to the Asst. Labour Commissioner (Conciliation Officer) dated 22nd February 1955.

D. Memo from the Conciliation Officer dated 22nd March 1955.

Gazette No. 49 dated 13th December 1955.

PART I

NOTIFICATION.

L. Dis. 15478|53|DD. *29th November 1955.*

The award of the Industrial Tribunal, Trivandrum in respect of the dispute between the Managers of the following Tile Factories at Alwaye and Chengamanad *viz.* S. N. Vilasom Tile Works, Alwaye, Lekshmi Vilasom Tile Works, Alwaye, Union Tile Works, Chengamanad, Sri Krishna Tile Works, Chengamanad, Victory Tile Works, Alwaye and Cosmania Tile Works, Alwaye and their workmen represented by the Alwaye Tile and Pottery Workers' Union, Alwaye received by Government on 16-11-1955 is hereby published under Section 17 of the Industrial Disputes Act 1947 (Central Act XIV of 1947).

Government Secretariat,
Development Department,
Labour Section,
Trivandrum.

By order of His Highness
the Raj Pramukh,
V. V. Joseph,
Secretary to Government.

Before

Sri K. N. Kunjukrishna Pillai, B. A., B. L.
Industrial Tribunal, Trivandrum.

ADJUDICATION No. 68 OF 1953.

Between

The Managers of the following Tile Factories at Alwaye and Chengamanad *viz.*

1. S. N. VILASOM TILE WORKS, ALWAYE.
2. LEKSHMI VILASOM TILE WORKS, ALWAYE.
3. UNION TILE WORKS, CHENGAMANAD.
4. SRI KRISHNA TILE WORKS, CHENGAMANAD.
5. VICTORY TILE WORKS, ALWAYE.
6. COSMANIA TILE WORKS, ALWAYE.

And

THE WORKMEN EMPLOYED IN THE ABOVE FACTORIES

Represented by

THE ALWAYE TILE AND POTTERY WORKERS' UNION, ALWAYE.

Representation:

M/s. G. B. Pai, M. A., B. L.,
P. Govindan Nair, B. A., M. L.,
K. V. R. Shenoi, B. A., B. L., } Advocates on behalf of Managements.

Sri P. Balagangadhara Menon. } Advocate on behalf of Union.

AWARD.

The dispute between the above parties was referred by Government in their Order L4-15478/53/DD. dated 3-12-1953 and was registered as Adjudication No. 68 of 1953 in the file of the Industriat Tribunal, Ernakulam. On the abolition of the office, the dispute was agoin referred to the Industrial Tribunal, Trivandrum. The Prestdent of the Kerata Tite Manufacturers' Association filed statement on behalf of the managements of the concerns on 18-1-1954 and the Secretary of the Alwaye Tile and Pottery Workers' Union, on behalf of the workmen, filed reply on 2-2-1954. On behatf of the managements, 2 witnesses were examined and Ext. I and Ext. II were filed. The issues to be decided are:—

1. Whether the reductton in the wage-rates of the workmen effected by the managements of the above factories in November 1953 justifiable? If not, to what reliefs are the workers entitled?
2. Whether the workmen of all or any of the above factories are entitled to wages for the period of the strike commencing from 23-11-1953? If so, to what extent?

2. It is seen that during the pendency, petitions under Section 33 were filed and orders have been passed after taking evidence. It is also seen that a petttion was filed by the workers enaged tn Cosmania Tile Works at Alwaye, one of the parties in the adjudication and the petitton had to be disposed after taking evidence. According to this petition, the management and the workmen of the Cosmania Tile Works agreed to a compromise which was objected to by the Union in which the workmen were members.

3. When it was posted to 8-11-1955 for evidence, I suggested to the parties whether they could not effect a settlement. Mr. Balagangadhara Menon, the learned Advocate on behalf of the Uuton, who ts always helpful tn effecting cordial relationship and better understanding between capital and labour, submitted that the Union was prepared for a compromise provtded that the managements restore the cut in the wages from the 1st Chingom, 1130 (M. E.). Mr. Subramonia Iyer, the President of the Kerala Tile Manufacturers' Association, who has also evinced a genuine interest in promoting a better understanding between the Union and the members of the Association in which he is the President agreed to restore the cut from the beginning of the last week of Thulam. Both the representatives submitted that they are agreeable to accept my award in this dispute.

4. Having in mind, the correct approach to the solution of the dispute by the parties, it ts easy for me to decide the matter. Due to reasons beyond the control of the managements, the managements effected a 10% cut in the wages from November 1953 in order to survive tn the struggle for existence. But, the Union would say that there was no necessity to effect a cut and

wages paid before cut was not even minimum wages. Any how, the cut effected in November 1953 was in vogue till now and there is no necessity to discuss the matter in view of the readiness of the parties to settle the question. The Union would demand that the cut should be restored from 1-1-1131 (17-8-1955) but, the managements would submit that they were prepared to restore the cut from 7-11-1955. Mr. Balagangadhara Menon submitted that he is not pressing Issue No. 2 also.

5. After taking into consideration the spirit of accommodation shown by both parties and the reasonableness shown by the Union in not pressing the other issue, I hold that the workmen should be given the same wages which they were paid before the cut in November 1953 from 1-10-1955. The worker engaged in Cosmania Tile Works, Alwaye who have filed the petition on 18-1-1954 before the Tribunal will not get the benefit of this award. The arrears should be paid within 2 weeks from the date of publication of this award in the Gazette.

6. So, I pass this award in terms specified above and this comes into effect from the date of publication under Section 17 of the Act.

Camp: Ernakulam,
12-11-1955.

K. N. KUNJUKRISHNA PILLAI,
Industrial Tribunal.

APPENDIX.

Employers' Witnesses.	*Workers' Witnesses.*
	Nil.
1. Sri Augustine.	
2. Sri O. M. Mackotha.	

Exhibits filed on behalf of managements.

I. Wage list of the Periyar Potteries, Alwaye as on 8th September 1954.

II. Minutes of the Joint Conference held in the office of the Labour Officer, Irinjalakkuda.

Exhibits filed on behalf of Union.

Nil.

Gazette No. 49 dated 13th December 1955.

PART I

NOTIFICATION.

No. L. Dis. 10181/54/DD. 29th November 1955.

The award of the Industrial Tribunal, Trivandrum in respect of the dispute between The Management of Hindustan Motor Service, Vaikom and their workmen represented by the Vaikom Motor Workers' Union, Vaikom received by Government on 16-11-1955 is hereby published under Section 17 of the Industrial Disputes Act 1947 (Central Act XIV of 1947).

Government Secretariat,
Development Department,
Labour Section,
Trivandrum.

By order of His Highness
the Raj Pramukh,
V. V. JOSEPH,
Secretary to Government.

Before

SRI K. N. KUNJUKRISHNA PILLAI, B. A., B. L.,
Industrial Tribunal, Trivandrum.

ADJUDICATION No. 26 OF 1954.

Between

THE MANAGEMENT OF HINDUSTAN MOTOR SERVICE, VAIKOM.

And

THEIR WORKMEN

REPRESENTED BY

THE VAIKOM MOTOR WORKERS' UNION, VAIKOM.

Representation;

SRI P. V. JOSEPH — Advocate on behalf of the management.

SRI P. BALAGANGADHARA MENON — Advocate on behalf of Union.

AWARD.

The above dispute was referred by Government in their Order L4-10181/54/DD dated 24-6-1954 to the Industrial Tribunal, Ernakulam and on the abolition of that office, it was again referred by Government in their Order L7-6204/54/DD dated

4th October 1954 and was registered as Adjudication No. 26 of 1954. The parties filed their statement and reply statement. The issues referred for adjudication are :—

1. Whether the present system of daily wages payment should be abolished and a system of 20 days work a month, whereby all workmen will get one month's pay for 20 days work should be introduced by the management? If not in what manner if any, should the existing system be modified?
2. Whether the present wages of drivers, conductors, checkers and booking clerks should be enhanced and if so, to what extent? Should any time scale be fixed for them and if so, in what manner?
3. Should the existing bata system be enhanced for trips beyond 120 miles a day? If so, to what extent?
4. Whether all workmen who have put in 3 months service in the company be made permanent? If not, what principle should be followed for the purpose of confirmation?
5. Whether the workmen are entitled to any bonus for the year 1953 and if so, at what rates?
6. Whether the amount of Rs. 200 now being insisted upon by the management from drivers, conductors etc. as deposit should be reduced? If so, to what extent?
7. Whether the company should introduce a Provident Fund scheme for the workmen and if so, on what terms and conditions?
8. Whether the daily working hours of checkers should be fixed and if so, what the daily working hours should be?
9. Whether the discharge of the following workmen is justifiable? To what relief are they entitled in case:
   (a) the discharge is justifiable?
   (b) the discharge is not justifiable?

1. Sri N. Vasu Pillai, Driver (Maveli Veedu, Vadakke Muriyil, Naduvile Pakuthy, Vaikom).
2. Sri K. R. Chandrasekharan Nair, Driver, (Kannattu Veedu, Vadakkemuri, Naduvile Pakuthy, Vaikom).
3. Sri K. P. John, Driver, (Chullampayil Veedu, Koothattukulam Pakuthy, Muvattupuzha taluk).
4. Sri K. T. Sechriya, Conductor, (Parampil Veedu, Naduvile Pakuthy, Vaikom).
5. Sri P. M. Chellappan, Conductor, (Bhasmasseril Veedu, Vadayar, Vaikom).
6. Sri P. Raghavan Nair, Conductor, (Puthrathil Veedu, Udayanapuram, Vaikom).

7. Sri A. Pushpasaran, Conductor (Murtyamkeril, Naduvele Pakuthy, Vaikom).

8. Sri R. Damodaran Nair, Booking Clerk (Ravindra Sadanam, Naduvila Pakuthy, Vaikom).

9. Sri K. R. Velappan Nair, Booking Clerk, (Naduvile Parampil Veedu, Thalayazham Pakuthy, Vaikom).

10. Sri P. J. Kuriyan, Checker, (Palathumkal Veedu, Kulasekharamangalam, Vaikom).

11. Sri K. N. Raghavan Nair, Checker, (Kanattavilla Veedu, Naduvile Pakuthy, Vaikom).

12. Sri P. Kuttappan Nair, Foreman, (Puthenpurayil Veedu, Udayanapuram, Vaikom).

2. It is really regretful to find that the Vaikom Moter Workers' Union did not care to adduce any evidence to substantiate the contentions raised by them eventhough the issues referred for adjudication are important. It is found from the Order Sheet that white I have taken for disposal on account of the fact that the Union did not adduce any evidence. On 15-3-1953, when the dispute stood for evidence, it was represented by the advocate on behalf of the management that the dispute was settled by the parties outside the Court, but the advocate on behalf of the Union submitted that he had no instructions regarding the matter. Eventhen, opportunities were given to the parties and it was posted for evidence several times. On 20-9-1955, while it was posted for evidence, a petition was filed by two workmen M/s. A. Pushpasaran and P. M. Chellappan that they might be allowed to take in the proceedings and adduce evidence and they had engaged Mr. Balagangadhara Menon as their Advocate and the date of posting may be informed to the advocate. I have allowed the petition and gave them another opportunity to adduce evidence and it was adjourned to 7-11-1955. On 7-11-1955 neither the Union representative nor the petitioners who filed the petition on 20-9-1955 were present. There was not even an application by the Union expressing an intention to adduce evidence.

4. From the conduct of the parties, it is clear that there is no subsisting disputes and I am constrained to hold that no dispute exists between the parties.

5. I pass this award accordingly and this comes into effect from the date of publication in the Gazette according to Section 17 of the Act.

Camp: Ernakulam,
12-11-1955.

K. N. Kunjukrishna Pillai,
Industrial Tribunal.

NOTIFICATION

No. L. Dis. 11916|55|DD. 29th November 1955.

The award of the Industrial Tribunal, Trivandrum in respect of the dispute between The Managing Director, Messrs. K. E. M. S. Ltd., Kottayam and their workmen represented by the Meenachil Taluk Motor Workers' Union, Palai received by Government on 19-11-55, is hereby published under Section 17 of the Industrial Disputes Act 1947 (Central Act XIV of 1947).

Government Secretariat,
Development Department,
Labour Section,
Trivandrum.

By order of His Highness
the Raj Pramukh,
V. V. JOSEPH,
Secretary to Government.

Before

SRI K. N. KUNJUKRISHNA PILLAI, B. A., B. L.,
Industrial Tribunal, Trivandrum.

ADJUDICATION No. 45 OF 1953

Between

THE MANAGING DIRECTOR, MESSRS. K. E. M. S. LTD., KOTTAYAM

AND

THEIR WORKMEN REPRESENTED BY THE MEENACHIL TALUK MOTOR WORKERS' UNION, PALAI

Representations:

Sri C. M. Ramachandra Menon—*Advocate on behalf of Management.*

Sri P. Balagangadhara Menon—*Advocate on behalf of Union.*

AWARD

The dispute between the above parties was referred by Government in their Order L 4-11916|53|DD. dated 11-9-1953 and was registered as Adjudication No. 45 of 1953, in the file of the Industrial Tribunal, Ernakulam and on the abolition of the office, it was again referred by Government in their Order L7-8204|54|DD. dated 4th October 1954 to the Industrial Tribunal, Trivandrum.

G. 3139|J.

2. The Meenachil Taluk Motor Workers' Union (which will be mentioned as Union hereinafter) filed their statement on 3-10-1953 and the Managing Director of Messrs. K. E. M. S. Ltd., Kottayam (who will be mentioned as employer hereinafter) has filed repty on 11-11-1953. The Union has examined 7 witnesses and filed Ext. A to Ext. L and employer has examined 7 witnesses and filed Ext. I to Ext. XXXIII. The issues to he decided are:—

(1) Whether a system of 20 days' work a month where by all workers will get one month's pay for 20 days' work should be introduced by the management? If not, in what manner, if any, should the existing system be modified?

(2) Whether the present salary of drivers, conductors, checkers and booking officers should be revised and if so to what extent? Should any time scale be fixed for them and if so in what manner?

(3) Should any system of minimum batta be introduced apart from the existing batta system and if so, in what manner?

(4) Whether the employees should be granted any kind of leave and if so what should be the extent and nature of such leave?

(5) Whether the compsny should publish a time sheet every fortnight regulating the trips and allotting the duties of each worker?

(6) Whether the company should introduce a Provident Fund Scheme for the workmen and if so on what terms and conditions?

(7) Whether the company should give receipts for the money deposited hy the workmen with the company whether the interest should be paid on such deposits and if so at what rate?

(8) Whether the workmen are entitled to any bonus for the years 1950, 1951 and 1952 and if so, at what rate?

(9) Whether all workmen who have put in 6 months' service in the company be made permanent? If not what should be the principle to he followed for purposes of confirmation?

(10) Whether the suspension and subsequent dismissal of the following 3 conductors are justifiable? If not to what reliefs are the workers entitled?

(a) Sri P. V. Mathew	Conductor
(b) Sri C. V. Kurien	"
(c) Sri T. S. Gopala Pillai	"

(11) Whether the dismissal of driver C. K. Joseph is justified, if not, to what relief is he entitled?

(12) Whether the suspension of conductor K. Narayanan from 5-5-1953 till 18-6-1953 is justifiable?. If not, to what relief is he entitled?

(13) Are the changes recently effected in the service conditions of driver Sri V. M. George justifiable? If not, to what reliefs is he entitled?

3. In this case most of the witnesses were examined and exhibits filed before my predecessor and hence I have to devote unusually more time in going through the evidence after hearing the arguments of the Advocates. Messrs. K. E. M. S. Ltd., is a limited company plying motor buses in North Travancore mainly from Kottayam to Erattupettah and *vice versa*. Just after the workers organised into a Union, the dispute between the parties arose and it was referred for adjudication. It has to be pointed out that the parties tried to settle the matter by negotiation, arbitration and conciliation but could not. Since then, the minimum wages for the industry was fixed and the Government issued the notification in October 1954.

4. SRI BALAGANGADHARA MENON who was found to be essentially reasonable has admitted that issue Nos. 1, 2, 3, 4, 5, 6, 7 and 9 do not arise for consideration after the minimum wages notification by Government in their Order L1-16322/53/DD. dated 9th October 1954. Regarding issue No. 8, Mr. Menon, on behalf of the union, has admitted that he was not pressing the issue after going through the Balance Sheet of the employer produced in this case. Mr. Menon has stated that he is not pressing issue No. 11. So the only issues to be decided are issue Nos. 10, 12, and 13.

5. Issue No. 10 reads. " whether the suspension and subsequent dismissal of the following 3 conductors are justifiable. If not to what reliefs are the workers entitled?

(a) Sri P. V. Mathew	Conductor
(b) Sri C. V. Kurien	"
(c) Sri T. S. Gopala Pillai	"

The justifiability or otherwise of a disciplinary action taken by the management against its employees should be considered having in view the basic principles laid down by the Labour Appellate Tribunal in the Buckingham and Carnatic Mills Case as reported in 1952—I—LLJ—314. If the Union succeeds to prove that the action of the management is vitiated by one of the four exceptions laid down in the above case, the Union succeeds. Hence the burden is on the Union because it is the right of a management to enforce discipline among its employees and in the discharge of its duty, it has got a right to take action against the employees subject to certain limitations which were formulated consequent on the evolutions of modern concepts of society.

6. I have to decide whether the employer was actuated with motives of victimisation when he took disciplinary action against the employees. Mr. Balagangadhara Menon would submit that the workmen organised into a Union on 25-8-1952 and a memorandum of demands was submitted on 25-3-1953 and the employer

began to take vengeance on the employees after the submission of the memorandum. But, it is seen that Sri P. V. Mathew was suspended on 18-11-1952 and dismissed on 30-12-1952 and M/s Kurien and Gopala Pillai were suspended on 18-11-1952 and on 4-4-1953 and they were discharged on 25-4-1953, and 7-4-1953 respectively. Simply because certain employees were discharged after submission of memorandum of demands by the Union in which the employees were members, it will not be conclusive evidence of victimisation but the alleged reasons for the action have to be taken into consideration in the back-ground. I will deal with individual cases.

7. SRI. P. V. MATHEW. The allegation against this conductor is that he did not issue tickets to five passengers who were travelling in the bus in which he was conductor on 17-11-1952 and this was detected by the Secretary of the concern. His explanation was called for and he was suspended for one month. After the expiry of the period, he was asked to deposit a security of Rs. 100, and as he did not deposit the amount, he was dismissed by an order dated 30-12-1952. From the evidence, certain acts are admitted and are proved as from Exts. IX, X, Xf, XII, XIIf, XIV and the deposition of Sri Mathai as WW5 and the Secretary as EW4. It is admitted by Sri Mathai that the Secretary checked the bus along with another on 17-11-1952 and it was true that he had found out that 5 travellers were without tickets but he has got his own explanation (Ext. X dated 19-11-1952.) It is also admitted that Sri Mathai was asked to furnish security of Rs. 100 but he would explain that he was not ordered to deposit the amount eventhough he went to the office with the money twice or thrice. So, I have to decide first whether the explanation which is marked as Ext. X is convincing or not to decide whether suspension is justifiable or not. According to Ext. X, he has admitted that there were 5 passengers in the bus without tickets at the time when the Secretary got into the bus on 17-11-1952 while the bus having the Nos. TCK 2020 was in motion but he would say that 2 of the passengers got in to the bus from a point ½ a furlong away and he could not issue the tickets and with regard to 2 others, he did not issue tickets because he was demanding money from the fifth passenger, who protested against purchase of a ticket as he was holding a free pass. Hence, the explanation was that the conductor was arguing with the fifth passenger to purchase the ticket and at that time the Secretary got into the bus and hence, he could not issue tickets to the other four passengers. According to the explanation and his deposition, he did not issue tickets because he was pre-occupied in discussion. This is most unconvincing and frivolous because it is the primary duty of a conductor to sell tickets as soon as passengers get in. The argument of Mr. P. B. Menon that the management did not get the statement of the passengers concerned and no opportunity was given to the conductor to examine the five passengers and thereby denied the principles of natural justice to him is stretching the theory to a

fault. Hence, I am completely satisfied that the suspension of the conductor for the reason of non-issuing the tickets to the passengers is justified.

8. According to the management, the reasons for dismissal is that the management ordered the conductor to join duty after suspension after deposit of security and that he never joined duty. To this, the conductor would say that he was ready with the amount but no written order was issued to him and in fact he went to the office with money but the Managing Director asked him to deposit the amount only after demand, since no demand was made, he did not deposit it and hence it is not his fault but the foult of the management. The learned Advocate would argue that non-deposit of security should not be a valid ground for dismissal and further that there was no demand and hence dismissal is arbitrary. The conductor as WW 5 swears "ഞാൻ 100 ഉറുപ്പിക കെട്ടിവെയ്ക്കാൻ തയ്യാറായിരുന്നു. മൂന്നു നാലു പ്രാവശ്യം ഉറുപ്പികയും കൊണ്ടുചെന്നു. കല്പനവരുമ്പോൾ ഡിപ്പോസിററ് ചെയ്താൽ മതിയെന്നു മാനേജിംഗ്ഡയറക്ടർ പറഞ്ഞു". I have to decide two questions here. In view of the allegation of victimisation, whether there is justification in the insistance to deposit security before joining work after suspension and if so whether the conductor was prepared to deposit the amount. This shows that the conductor who did not deposit security before he was suspended was informed of the necessity of the deposit and further he was ready with the amount. Ext. XI dated 19-11-1952 is a copy of a letter from the employer to the conductor in which the conductor was asked to deposit Rs. 100 before joining work after suspension. Eventhough the receipt of this letter is not accepted by conductor, it is clear from the admission as quoted above that he knew about the necessity and went thrice or four times to the office with money. The question whether the management was justified in insisting to deposit the amount and to give work to the conductor need not be scrutinised very much because the management was convinced from the conduct of the conductor that security was necessary at least to safe-guard the finance of the company because action of the conductor in allowing travellers to travel in the bus without tickets took place on the next day of his joining duty as conductor (Ext. XI). I do not further believe the conductor when he said that he was ready with the amount and he went to the office with money several times but the Managing Director did not ask him to deposit. The two important circumstances which persuade me to come to the conclusion are that the conductor could not have come with Rs. 100 to the office after a period of suspension. The utmost a prudent worker would have done under the circumstances was to get an extension of time after making a partial deposit. Then after having come, according to him, it cannot be believed that the Managing Director would have prevented him from depositing especially in view of Ext. XI letter. Why should the Managing Director who was very anxious as a businessman to safeguard his financial commitments refuse to accept the

amount except for the reason that he wanted to find out a way to victimise him? If that be so, he could have done so when the serious misconduct of the conductor was found out on 17-11-1952 after the formation of the Union on 25-8-1952. The other circumstances is that the conductor has admitted that he was an accused in a murder case. He says "[illegible] കമ്പനിയിൽ പോയതു 1952 ഡിസംബർ 18-ാം തീയതി 19-ാം തീയതി ആണെന്നാണ് ഓർമ്മ........................എന്റെ മേൽ ഒരു കൊലക്കേസ് ഉണ്ടായിരുന്നതുകൊണ്ടാണ് ജാമ്യം കെട്ടാഞ്ഞത്. പിന്നെ ജോലിക്ക് ഹാജരാകാഞ്ഞത് ഓർമ്മയുണ്ട്." This is a clear evidence to prove that the conductor presented himself after suspension on 18th or 19th December 1952 and he could not be given work because he did not deposit the security and thereafter he was not available for work as he was an accused in a murder case in which he was either absconding or in jail. Hence, I hold from the evidence and other circumstances that the conductor did not deposit the security in time as demanded and absented himself without leave and the management was compelled to discharge him on 30-12-1952. It cannot be considered as over-stay of leave and they are justified in doing so.

9. Sri C. V. Kuriyan was a conductor suspended on 4-4-1953 and was discharged on 25-4-1953. The charge against him was that the conductor did not issue ticket to a traveller after receiving money from the traveller and checker Mr. George detected on 27-3-1953 in the bus and he made Ext. I report to the employer. Sri Kuriyan was issued Ext. D memo dated 29-3-1953. Ext. XVII dated 31-3-1953 is the explanation offered by the conductor. To this Ext. E memo was issued according to which he was suspended pending enquiry. It is contended that the employer conducted enquiry and found the guilt against the conductor and Ext. F (2) dated 25-4-1953 is the finding of the management. On the basis of this finding, he was discharged on 25-4-1953 and was asked to receive his dues from the company. Accordingly he executed a receipt [Ext. XVI (a)] and got his dues including the deposit.

10. On going through the evidence, I am inclined to think that the domestic enquiry conducted by the employer was not as it ought to be. To this, Mr. Ramachandra Menon would explain that there were no Standing Orders prescribing the method of enquiry and the decision of the Tribunals on the question were not well defined in those days but nonetheless the Management had given opportunity to the conductor to explain his conduct and hence the employer under the circumstances had observed the principles of natural justice.

11. Nevertheless, I have to justify the action of the employer on the admission of the conductor Sri Kuriyan. The last straw that broke the camel's back is the incident which took place on 27-3-1953. On the day the bus in which Sri Kuriyan was the conductor was plying from Kottayam to Erattupetta

and Sri George, the checker checked the bus at Kumaranalloor Junction which was about two furlongs away from the point at which the traveller who was travelling without ticket got into it. The checker found out the traveller who was travelling without ticket got into it. The checker found out that the traveller was without ticket and he has stated that he already paid his fare to the conductor. The checker issued a ticket (Ext. II) to the traveller. When Sri Kuriyan was examined as WW3, he had deposed "C. E. മാത്യ" [illegible] 27-3-'53. ൽ യാത്രക്കാരന് ടിക്കറ്റ് എഴുതിക്കൊടുത്തു. ആ ടിക്കറ്റ് 1½, 2 ഫർലോംഗ് ദൂരം വച്ച് കൊടുത്തതാണ്. [illegible] യാത്രക്കാരൻ എന്നെ ഏല്പിച്ചില്ല. കുമാരനല്ലൂർ കവലയിൽ യാത്രക്കാർ ആറു പേരും ടിക്കറ്റ് ചെക്ക് ചെയ്തില്ല. ആ ടിക്കറ്റാണ് Ext. II". To this point, the checker as EW1 deposes "ഞാൻ സി. വി. കണ്ടക്ടറായിരുന്ന ബസ്സ് കോട്ടയത്തുനിന്നും ഏറ്റുമാനൂർ വഴി പരിശോധിച്ചിട്ടുണ്ട്. കുമാരനല്ലൂർ കവലയ്ക്ക് സമീപം വച്ചാണ് ചെക്ക് ചെയ്തത്. അപ്പോൾ കോട്ടയത്തുനിന്നും കുമാരനല്ലൂർക്ക് വരെ യാത്രക്കാരന് ടിക്കറ്റ് കൊടുത്തിരുന്നില്ല. ടിക്കറ്റിന്റെ പണം കോട്ടയം സ്റ്റാന്റിൽ വച്ചുതന്നെ വാങ്ങി എന്ന് യാത്രക്കാരൻ പറഞ്ഞു. കോട്ടയത്തുനിന്നും കുമാരനല്ലൂർക്ക് ഒരു നാഴിക ദൂരമാണ്. ഞാൻ ടിക്കറ്റ് എഴുതികൊടുത്തു. കമ്പനിക്ക് റിപ്പോർട്ട് ചെയ്തു." Both the witnesses agree in material points and it is crystal clear that a passenger who boarded the bus at Kottayam was not given the ticket till the bus reached Kumaranalloor after receiving the fare at Kottayam. This is admitted by the conductor and the checker had to issue the ticket which is produced as Ext. II. This being the admission of the conductor what was his explanation before the employer. It is marked as Ext. XVII. In Ext. XVII the Conductor would assert that the person to whom ticket was not issued was a boy below 7 years of age and since that boy was sitting among some passengers the conductor did not issue a ticket to the boy. It is also asserted that since the checker asked the conductor to issue a ticket to that boy also, the conductor sold a ticket to the boy and received the money. This has been his stand throughout but when he was cross-examined as WW3 his case is totally different. Further, there is absolutely no reason to disbelieve the checker who was alleged to be a relation of the Managing Director. The checker swears that the traveller was not a boy below 7 years but a grown-up man nearing 30 years. I completely disbelieve the explanation offered by the conductor in Ext. XVII and hold that it is a clear case of pilferage. Eventhough the amount in this particular case is very small, the past conduct of the employee as revealed in Ext. F(2) which is supported by other documents produced in this case amply prove that he is thoroughly unreliable and to continue to engage him as a conductor is disasterous to the business. This present case is one of the series of incidents of pilferage and I have absolutely no hesitation in justifying the action of the management eventhough the enquiry was not up to the mark. In the face of the admission

I overlook the defect and justify the action ef the management. The empteyce has alse accepted his dues end left tbe servtce for the geod ef the company.

12. T. S. Gopala Pillai is also a conductor who was suspended on 4-4-1953 and dismissed en 7-4-1953 en the charge of pilferage. Mr. Ramachandra Menen would rely Ext. Q series, Ext. V, V (a), VII, VIIt, XX, XXVIII and the depositlen of him and point eut that the charge against him was proved and that be has also impliedly admitted and got back his dues. It was alleged that en a surprise checktng ef the tickets in the bus T. C. K. 515 on 3-4-1953, it was detected that thts conductor did not issue ticket to a passenger who was travelling from Palai after receiving the fare from him. On the report of checker Sri Abraham whtcb is Ext. VII his explanatien was called for which is Ext. Q series. Ext. Q (2) is the copy of the explanatien offered by the werker and it is denied by the empleyer. On 7-4-1953, he was given an erder that he was dismissed from service. Mr. P. B. Menen would strongly centend that ne opportunity was given to the werker as there was no enquiry. Accerding te the employer, eventhough the werker did not give any explanatien, be was called fer and enquiry was cenducted by the management and the management was cenvinced about the miscenduct and was dismissed having in mind his previous conduct. There is some force in the argument of Mr. Menon that that a detailed enquiry was net conducted in that the passenger who was not issued the ticket en 3-4-1953 was not called and asked for. But, it has to be stated that in a case ef this kind, lt would not be possible te get at the travellers and te examine them in the presence ef the culprit and it is also not impossible to ceok up records against a worker if the management wanted to de so. Hence, each case has to be examined on the facts irrespective of the abeve facters. In this case, it is not alleged why Sri Abraham, checker should have fabricated evidence against the conductor. Futher wbat was the previous history of the conductor? The conductor while examined as WW2 has stated: "എന്നെ ഇതിനുമുമ്പ് ഒരു പ്രാവശ്യം ഡിസ്മിസ്സ് ചെയ്തിട്ടുണ്ട്. ടിക്കററ കൊടുക്കാതെ പണം വാങ്ങി എന്നുള്ള കുററത്തിനാണ്. എന്നെ ഡിസ്മിസ്സ് ചെയ്തത്." A conductor who was appointed on 24-10-1952 on a temporary basis hes committed this serious misconduct in the course ef 6 montbs and he was dismissed for such an offence on 28-1-1953. Ext. V and Ext. V (a) tickets would shew that be did not issue tickets to two passengers after receiving (15+6) 21 As. and the checker has issued tickets. Nevertbeless, be was reinstated. Hence, I am clearly convinced that the conductor had cemmitted the miscenduct on 3-4-1953 and even if there was no pucca enqulry, I bave absolutely no besitation taking into consideration his previeus cenduct in justifying the actien of tbe management.

13. The Palai Conference, the submission of memorandum of other factors do not warrant that the management is

persuaded with ulterior motives in suspending and dismissing the 3 workmen because they were guilty of the charges. If pilferage has to be encouraged, then there is no safety for this industry.

14. Issue No. 11 reads:—

"Whether the dismissal of driver C. K. Joseph is justifiable".

15. Mr. Menon has submitted that he is not pressing the issue. I also find that the worker was not examined. Hence, I decide the issue against the Union.

16. Sri K. K. Narayanan, conductor was suspended from 5-5-1953 to 18-6-1953 for allowing a free-pass-holder to travel in the bus after the expiry of the period of the pass. Ext. XXVI is the letter from the employer to the worker explaining the circumstances under which the original indefinite period of suspension was called. On reading through Ext. XXXVI, I am of the view that the employer was hasty in placing the worker under suspension before holding a proper enquiry. The employer should bear in mind that before suspending a worker, he must be convinced of a *prima facie* case and I think no such case was established to this. Hence, I cancel the suspension as it is unjustifiable.

17. Driver Sri V. M. George was dismissed from service by Ext. K (2) order dated 30-6-1953. In support of the contention of the employer, Mr. Ramachandra Menon would rely on Ext. K (1), K, XXII, XXIX and Ext. K (2). According to Ext. K (3), it would show that the management has alleged insubordination, drunkenness and wilful domination to the company's properties. In this case also Mr. P. B. Menon would raise the contention of want of proper enquiry. As far as I am concerned, the admission that he was drunk while he was on duty is sufficient for me to justify the dismissal. Ext XXII is the explanation offered by the driver to the charges levelled against him. in Ext. XXII, he has stated "[illegible] വണ്ടി കേടായതിനാലും ഞാൻ സ്വല്പം മദ്യപിച്ചിരുന്നു." It was on 6-6-1953 when, according to the driver, there was a break-down of the bus in the route and that he was drunk. It is clear that the driver was on duty when he was drunk. Going through the evidence, it strikes me that the charges were very serious and his explanation was thoroughly unconvincing. A driver who used to drink while on duty, is not fit to be a driver and hence the employer is justified in dismissing the worker.

18. It has to be stated that the same documents had been produced by both parties and there is over-lapping in the

marking of the document also. I have referred to above only relevant documents necessary for a proper appreciation of the case.

19. I pass this award in terms specified above. The arrears if any has to be paid within 2 weeks from the date of publication of the award. Sri C. K. JOSEPH has to be reinstated immediately. He should be deemed to be in service from the date of expiry of suspension according to Ext. XXVII notification.

20. This award will come into effect from the date of publication according to Section 17 of the Act.

K. N. KUNJUKRISHNA PILLAI,
Industrial Tribunal.

Camp: Trichur,
15th November 1955.

APPENDIX

Workers' Witnesses.

1. Sri Joseph Abraham
2. ,, Joseph M. Vypana
3. ,, Choorakkulam Kuriyan
4. Pazhayapurakkal Sri Gopala Pillai
5. Pandiyam Vakkal Sri Mathai
6. Sri V. M. George
7. Sri K. M. Chandy

Employer's Witnesses.

1. Chilappuratthe Sri George
2. Mannattara Sri Abraham
3. Chilampattacherril Sri Mathew
4. Puthenpurayil Sri George
5. Sri C. M. Chacko
6. Choorakkulathu Sri Devassia
7. Cheruthanniyil Sri Thomasa

Exhibits on behalf of workmen.

A. Balance Sheet as on 31st December 1952 of Kottayam Erattupetta Motor Syndicate Ltd., Kottayam.

B. Service conditions of employees in the several categories of the United Motor Union Ltd., Palai.

C. Statement showing scales of salary, batta, etc., submitted by Joseph M. Vypana, Managing Director, The Palai Motors Ltd., dated 7-4-54.

D. Letter from the Manager of Kottayam Erattupetta Motor Syndicate Ltd., Kottayam to Sri C. V. Kuriyan dated 29-3-1953.

E. Letter from the Manager of Kottayam Erattupetta Motor Syndicate Ltd., Kottayam to Sri C. V. Kuriyan dated 4-4-1953.

F (1). Letter from the Managing Director, Kottayam Erattupetta Motor Syndicate Ltd. Kottayam to Sri C. V. Kuriyan dated 21-4-53.

F (2) Discharge letter from the Managing Director to Sri C. V. Kuriyan dated 25-4-1953

F (3) Memo from Kottayam Erattupetta Motor Syndicate Ltd., dated 4-4-1953, to Sri C. V. Kuriyan, Conductor.

G (1) Letter from the Manager, Kottayam Erattupetta Motor Syndicate Ltd., to Sri T. S. Gopala Pillai.

G (2). Letter from Sri T. S. Gopala Pallai to the Managing Director, M|s. K. E. M. S. Ltd.

G (3). Letter from the Manager, M|s. K.E. M. S. & Gomathy to Sri T. S. Gopala Pillai dated 4-4-1953.

H. Register Book of the Meenachil Taluk Motor Workers' Union showing list of members paying subscription.

J (1). Letter from Joint Service Swaraj Motors Ltd. K. E. M. S. Ltd., Palai Motors Ltd., & Gomathy Motors to Sri P. V. Mathai dated 19-11-1952.

J (2). Letter from Joint Service Swaraj Motors Ltd, K. E. M. S. Ltd, Palai Motors Ltd., & Gomathy Motors to Sri P. V. Mathai dated 18-11-52.

K (1). Letter from the Manager, The Kottayam Erattupetta Motor Syndicate Ltd., to Sri V. M. George dated 12-6-1953.

K (2). Letter from the Managing Director, M|s. K. E. M. S Ltd., to Sri V. M. George dated 30-6-1953.

K (3). Letter from the Manager dated 25-3-1953 to Sri V. M. George.

L. Clarification statement submitted by Sri K. M. Thomas, General Secretary, the Meenachil Taluk Motor Workers' Union, Palai for and behalf of the workmen.

Exhibits on behalf of management.

I. Report submitted by C. E. George dated 28-3-1953 before K. E. M. S., Manager.

II. Ticket No. 58016.

III. Deposition given by Sri C. E. George dated 22-4-1953.

IV. Report by Sri Abraham dated 18-12-52 to the Managing Director, K. E. M. S. Ltd., Kottayam.

V. Ticket No. 75569.

V. (a) do. 75570.

VI. Report submitted by the Booking Officer, Sri C. M. Mathew dated 21-10-1952 to the Managing Director, K. E. M. S. Ltd.

VII. Report submitted by Sri C. J. Abraham to the Manager, M/s. K. E. M. S. Ltd.,

VIII. Ticket No. 42918.

IX. Letter from the Secretary, Swaraj Motors Ltd., K. E. M. S. Ltd., Palai Motors Ltd., & Gomathy Motors to Sri P. V. Mathai dated 18-11-1952.

X. Explanation given by Sri P. V. Mathai to the Manager, K. E. M. S.

XI. Letter from the Secretary. K. E. M. S Ltd., & Gomathy Motors dated 19-11-1952 to Sri P. V. Mathai.

XII. Memo from M|s. K. E. M. S. Ltd., dated 21-6-1952 to Sri P. V. Mathai.

XIII. Voucher given by Sri P. V. Mathai dated 3-2-1953 to M|s K. E. M. S.

XIV. Letter from the Manager, K. E. M. S. Ltd., & Gomathy Motors dated 30-12-1952 to Sri P. V. Mathai.

XV. Scales of wages of the employees of K. E. M. S. Ltd.

XV (a). Statement submitted by Sri C. K. Devassia and 35 others to the Managing Director, M|s, K. E. M. S, Ltd., dated 27-3-1953.

XVI. List of employees in K. E. M. S. Limited

XVII. Explanation given by Sri C. V. Kuriyan to the Manager, K. E. M. S. dated 31-3-1953.

XVI (a). Receipt executed by Sri C. V. Kuriyan to K. E. M. S. dated 28-7-53.

XVIII. Letter from the Manager, K. E. M. S. Ltd., dated 4-4-53 to Sri C. V. Kuriyan.

XIX. Letter from the Secretary, K. E. M. S. Ltd., dated 24-10-1952 to Sri T. S. Gopala Pillai.

XX. Receipt given by Sri T. S. Gopala Pillai dated 18-7-1953.

XXI. Letter from Sri T. S. Gopala Pillai dated 24-4-1953 to the Manager, K. E. M. S. Ltd.

XXII. Letter from Sri V. M. George dated 16-6-1953 to the Managing Director, K. E. M. S. Ltd.

XXIII. Letter from Sri V. O. Markos dated 20th June 1953 to the Managing Director, K. E. M. S. Ltd., Kottayam.

XXIV. Letter from the Managing Director, K. E. M. S. Ltd. dated 4-5-1953 to the General Secretary, The Meenachil Taluk Motor Worker's Union, Palai.

XXV. Agreement entered into between the Meenachil Taluk Motor Workers' Union representing the employees of K. E. M. S. Ltd., Kottayam and the Managment of K. E. M. S. Ltd., Kottayam dated 19th may 1953.

XXVI. Outward resgister of K. E. M. S. Ltd. for 14-6-1951,

XXVII. Gazette sheet dated 28th April 1953, No. 17.

XXVIII. Letters from the Manager, K. E. M. S. Ltd., to Sri T. S. Gopala Pillat dated 27-10-1952, 4-4-1953, 7-4-1953, 28-1-1953 21-1-53, 4-4-1953.

XXIX Report submitted by Sri C. M. Mathew before the Managing Director K. E. M. S. Ltd., dated 10-6-1953 and letters from the Manager, K. E. M. S. Ltd., to Sri V. M. George dated 12-6-1953, 30-6-1953.

XXX. Letters from the Manager, K. E. M. S. Ltd. to Sri C. V. Kuriyan dated 29-3-1953, 4-4-1953, 25-4-1953 and the deposition of Sri C. V. Kuriyan.

XXXI. Letter from the Manager, K. E. M. S. Ltd., dated 18-6-1953 to Sri K. K. Narayanan.

XXXII. Balance sheet as on 31st December 1953 of M/s. K. E. M. S. Ltd.

XXXIII. Letter from the General Secretary, the Meenachil Taluk Motor Workers' Union, Palai to the Managing Director, K. E. M. S. Ltd., Kottayam dated 1st May 1953.

Gazette No. 49 dated 13th December 1955.
PART I.

NOTIFICATION

No. L. Dis. 3852/53/DD. 7th December 1955.

The award of the Industrial Tribunal, Trivandrum in respect of the dispute between Messrs. The Tata Oil Mills Company Ltd., Tatapuram, Ernakulam and their workmen represented by the Tata Oil Mills Company Ltd., Staff Association, Tatapuram, Ernakulam received by Government on 30-11-1955 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

Government Secretariat,
Development Department,
Labour Section,
Trivandrum.

By order of
His Highness the Raj Pramukh,
V. V. Joseph,
Secretary to Government.

Before

Sri K. N. Kunjukrishna Pillai, B. A., B. L.
Industrial Tribunal, Trivandrum.

ADJUDICATION No. 15 OF 1953
and
INDUSTRIAL DISPUTE No. 140 OF 1955
between
THE TATA OIL MILLS COMPANY LIMITED, TATAPURAM, ERNAKULAM
and
THEIR WORKMEN REPRESENTED BY THE TATA OIL MILLS COMPANY LIMITED STAFF ASSOCIATION, TATAPURAM, ERNAKULAM.

Representation :

Messrs. G. B. Pai, M. A., B. L.
P. Govindan Nair, B. A., M. L.
K. V. R. Shenoi, B. A., B. L. } *Advocates on behalf of the Management*

Sri P. Balagangadhara Menon : *Advocate for the Staff Association*

AWARD

The disputes between the above parties were referred by Government in their Order L4-3852/53/DD dated 20-5-1953 to the Industrial Tribunal, Ernakulam and it was registered as Adjudication No. 15 of 1953 and by the Order L4-3852/53/DD.

dated 29-6-1953, the Government amended the Order of reference. On the abolition of the Industrial Tribunal, Ernakulam, the Government by their Order L7-8204/54/DD dated 4th October, 1954 referred the same dispute to Industrial Tribunal, Trivandrum. The Government by another Order L4/14897/55/DD dated 1-8-1955 referred another dispute to the Industrial Tribunal, Trivandrum and the same was registered as Industrial Dispute No. 140 of 1955. It is agreed by the parties that a common award may be passed. The issues to be decided in both the disputes are:—

(1) Are the recent transfer orders passed on the members of the staff of the Tata Oil Mills Company Limited, Tatapuram acts of victimisation or unjustifiable on any other ground? If so, to what relief are the members of the staff entitled?

(2) Whether the staff who have tendered the resignation as a result of transfer orders be reinstated in service by the Management.

(3) Whether increment with retrospective effect should be given to such staff whose salaries have been stayed at the efficiency bar.

(4) Should the members of the staff be given an allowance of Rs. 25 per cent or less for work outside the time limit of 8 A. M. to 4-30. P. M.?

(5) Should the basic salary in each grade be enhanced by 25% or any lesser amount?

(6) Is the demand of the staff for payment of dearness allowance for all catergories of staff at Bombay level and for merger of a portion of their dearness allowance with the salary justifiable; and if so, to what extent?

(7) Should service be reckoned as a criterion for promotion; and if so, to what extent?

(8) Should the members of the staff be given a minimum yearly bonus equivalent to three months' salary or less?

(9) Should any house rent allowance be paid to the staff; and if so, at what rate?

(10) Should any shift allowance be granted to the members of the staff for working in the second and third shifts, and if so, to what rate?

(11) Are the staff entitled to any dress allowance; and if so, at what rate?

(12) Is the demand for the increase of casual leave from 7 to 15 days per year to be conceded by the Management?

(13) Should the different grades in the same category of staff be abolished?

(14) Are clauses 5 (a) and 20 of the Standing Orders of the Company fair and proper? If not, in what manner should they be amended?

(15) What should be the overtime allowance payable to the staff ?

(16) Should paid-holidays be granted for Independence Day, Republic Day and Gandhi Jayanthi Day ?

(17) Whether the irregularities in the watch and ward Department alleged in the letter of the Staff Association to the Management dated 23-1-1953 are true ? And if so, what steps should be taken to remedy the same?

(18) Are the members of the staff who are on strike entitled to pay for the period of the strike from 7-5-1953 to 23-5-1953?

(Adjudication No. 15/53)

1. Is the non-payment of full salary for March 1955 of the members of the staff and of the watch and ward shown in the annexure is justifiable; if not, to what relief are they entitled?

(Industrial Dispute No. 140/55)

2. In Adjudication No. 15 of 1953, the Staff Association has examined 4 witnesses. The parties in this case were applying for time on the ground that attempts were going on to come to some understanding regarding the disputes. It was during the pendency of this dispute that Industrial Dispute No. 140 of 1955 was referred by Government.

3. It is really gratifying to note that a compromise petition was filed on 25-11-1955. The parties in general and the advocates in particular have endeavoured to effect the compromise and it has to be pointed that all of them concerned realised the urgency and importance of establishing industrial peace in the concern. It is really a matter of utmost appreciation that the Staff Association under the leadership of its President, a tried trade unionist, and on the advice of its advocate entered into the compromise eventhough some of the terms of the compromise may not seem to be acceptable ordinarily to less practical trade unionist. Mr. Karunakarn, the President of the Staff Association was examined as WW4 on the compromise petition which is marked as Ext. A. He has deposed that the terms were discussed in general body meeting of the Staff Association and were accepted by them. It is good that the Management on the sound advice of its legal advisors rose equal to the occasion and pursued the path of mediation in entering into the compromise. I accept the compromise as the terms are fair and reasonable under the peculiar circumstances which gave rise to the dispute.

4. The terms of the compromise are :—

"1. **Recognition of the Union.** The Staff Association will be recognised on the following conditions :—

(i) That the Supervisory Staff will not be enrolled as members.

(ii) That the personnel of essential service will not be active members of the Union though they have the right to subscribe and are entitled to be members but the said essential staff will not take part in any strike.

(iii) In the event of a strike, 15 days' notice in writing will be given by the Association. The constitution of the Association will provide for giving such notice and for taking a strike ballot. It is also agreed that no strike will be initiated unless it is favoured by a two-third majority.

2. Transfers. On the question of transfers, while the Association concedes the right of the Management to effect transfers of employees from one establishment to another, they state that this right should be exercised with sufficient safeguards for the employees. The Company accepts this suggestion and agrees to provide the following safeguards :—

(i) That the right to transfer should be kept in abeyance for some time, say, for the period of two years, when the Company should not transfer its employees beyond the Malabar Coast. During the said period of two years the Company is at liberty to transfer employees beyond the Malabar Coast if the employees concerned is willing and in consultation with the Association.

(ii) If at any time this right is exercised, it should be clearly on the basis that the employee concerned does not suffer compared with the corresponding employee of equal service in the place where he is transferred to. In other words the employee transferred should be given the emoluments paid to the corresponding employee in the Company at the place of transfer.

(iii) In respect of the employees who have resigned in the wake of the transfers, if any suitable vacancy occurs in future, their cases will be considered in priority to new applicants.

3. Revised Grades:

Clerk.

A. Rs. 100-7-150 E. B.-10-240 E. B.-15/2-300
(24 years)

B. Rs. 60-5-100 E. B.-7-170 E. B.-10/2-200
(24 years)

C. Rs. 45-3-60 E. B.-5-100 E. B. 6-142-8/2-150
(22 years)

Stenegrapher.

A. Rs. 100-7-150 E. B.-10-250 E. B.-20|2-310 (23 years)

B. (Abelished).

Typist.

A. Rs. 60-5-100 E. B.-7-170 E. B.-10|2-200 (24 years)

B. (Abelished).

Havildar. Rs. 45-3-60 E. B.-5|2-75 (11 years)

4. **Fitting in:** In the case ef Stenegraphers and Typists in the 'B' Grade (which grade is new being abelished) these drawing at present belew the minimum ef the revised Grade weuld draw the minimum in the revised grade and those whe may beceme entitled te draw in excess ef the minimum ef the revised grade will be fitted in the appreprate steps in the revised grade.

5. **Stay at Efficiency Bar:** (*Superflueus staff*) Regarding these ameng the superflueus staff (the Asseciatien dees not admit that they are superflueus) whe were held up at the Efficiency Bar en 1-10-1953 or prior te it, they will be all entitled te receive three increments with effect frem 1-10-1955 if adjudged te be cempetent. Similarly those held up in 1954 will be qualified to receive twe increments if adjudged te be competent with effect from 1-10-1955 and these held up in 1955 to ene increment with effect frem 1-10-1955 if adjudged te be cempetent. The next increments of those referred te above will fall due on 1-10-1956 similar te what has been dene in the case of those ef the permanent staff in the year 1953.

6. **Attenders:** This designatien, category as well as grade attached te it will be abelished and those among them whe are feund fit te de clerical werk will be placed in clerical grade 'C' and ethers weuld be converted inte daily paid werkmen. The Cempany will be the sele judge for deciding the question of fitness as to whe sheuld be placed in clerical grade 'C' and whe sheuld be cenverted into daily paid category. The conversien will not adversely affect the remuneratien currently being received by this category ef werkers. However, if there are any whe are unwilling te be converted inte daily paid workmen, they will be permitted to continue in their present grade which will net be revised.

7. **Draughtsmen and Tracers:** The fellewing grades will apply:—

	Revised grade
Tracers ..	Rs. 40-4-80
Assistant Draughtsmen	Rs. 60-5-100 E. B. 6-142-8|2-150
Draughtsmen ..	Rs. 100-10-150 E. B. 10|2-200

Tracers who are adjudged to be competent by a suitable test for preparing estimates and drawings will be promoted as Assistant Draughtsmen. The present incumbents who have already had the requisite experience will be promoted as Assistant Draughtsmen.

8. **Compounders:**—No change in the grade.

9. **Soap Boilers:**—All soap boilers will be converted into daily paid workmen. However, the Company will not effect this conversion against their will. Those who are not willing to be converted into daily paid will remain in their existing grade and the Company is not inclined to revise their grades. However, such of those who are desirous of being absorbed in the clerical cadre would be so absorbed in the 'C' grade for clerks if and when suitable vacancies arise.

10. **Switch Board Operators:**—No change in the grade.

11. **Motor Transport Department:**—No change in the grade.

12. **Analytical Assistants & Testing Assistants:**—Will be fitted in the revised Clerical Grade 'C'

13. **Festival Holidays:**—The Company cannot see their way to increase the number of existing holidays. However, the Company is prepared to leave the freedom of choice for substitution of the existing days for any other days to the employees provided they and the daily rated workmen submit to the Company agreed day or days of their choice.

14. **Watchmen:**—No change in the grade.

15. **Personnel of Essential Service:**—

(i) Watch and Ward.
(ii) Steam Generating Plant.
(iii) Electrical Sub-station.
(iv) Domestic Servants.
(v) Canteen Staff.
(vi) Dispensary Staff.
(vii) M. T. D. Staff.

16. **Supervisory Staff.** Supervisory staff are from and inclusive of the category of foremen upwards.

17. **Persons who resigned in 1953.** The Company are prepared to consider to offer jobs in the Sales Offices whenever any suitable vacancy arose. Further, if those among the resigned are prepared to accept jobs in the proposed new factory at Calcutta, the Company are prepared to consider their cases.

Mr. K. Raman Menon was offered a Salesman's job under the Coimbatore Sales Department which he accepted. After training, he would be deputed for work in the Travancore-Cochin State area on the starting salary of Rs. 100 in the Salesman's Grade.

18. **Adjustment in Increments.** With a view to accommodate the wishes of the Staff and for effecting a full and final settlement of all outstanding issues involved in this dispute and also with a view to giving the employees an immediate benefit, the Company have agreed to grant an increment on 1-4-1955 to all those who drew their last increment on 1-10-1954 and to permit them to receive their next increment on 1-10-1956. Similarly the Company have also agreed to grant one increment on 1-10-1955 to all those who received their last increment on 1-4-1955 and to permit them to receive their next increment on 1-4-1957. In regard to those who have reached the maximum of their grades the Company agrees to grant them an amount equal to the last increment drawn by them purely as a facility personal to them.

In view of the settlement arrived at as indicated above, the Staff Association does not press all the other demands and agree that no other issue need be considered in this adjudication and that an award may be passed as per the terms of the settlement incoporated above."

5. I accept the above terms and pass the award and decide the issues referred for adjudication in both cases accordingly. The award will come into effect from the date of publication in the Gazette under Section 17 of the Act.

Trivandrum,
28-11-1955.

K. N. KUNJUKRISHNA PILLAI,
Industrial Tribunal.

APPENDIX

Employer's Witnesses.	*Workers' Witnesses.*
Nil.	1. Shri R. Mahadevan. 2. Shri M. G. Ramachandra Shenoi. 3. Shri K. C. Francis. 4. Shri Karunakaran.

Exhibits filed on behalf of Management.

Nil.

Exhibits filed on behalf of Union.

A. Joint application submitted by the Management of the Tata Oil Mills Co., Ltd., and the Staff Association, in Adj. No. 15|53 and I. D. No. 140 of 1955.